

ASSEMBLY BILL

No. 2117

Introduced by Assembly Member Evans

February 20, 2008

An act to amend Section 369.5 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 2117, as introduced, Evans. Dependent children: psychotropic medications.

Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child who has been removed from the physical custody of his or her parent. Existing law requires the court authorization for the administration of psychotropic medication to be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. Existing law requires the officer to approve or deny the request for authorization to administer psychotropic medication, or set the matter for hearing, as specified, within 7 court days.

This bill would expand the authority of a juvenile court judicial officer to make orders regarding the administration of psychotropic medications to include a dependent child who has been removed from the physical custody of his or her guardian, or a child who has been removed from the physical custody of a parent or guardian pending adjudication as a dependent child. The bill would require the physician or other health care professional submitting the request for psychotropic medication to have conducted an appropriate examination of the child. The bill

would require the juvenile court judicial officer, before authorizing the administration of psychotropic medication, to make a finding that the child's caregiver has been informed, and the child has been informed in an age-appropriate manner, of the expected results of the medication, significant side effects, and any other recommended treatments, and that the child has been informed of his or her right to request a hearing.

This bill would require a dependent child to be present in court for any hearing on the request for authorization to administer psychotropic medication, except as specified. The bill would require the court to make specified orders upon authorizing the administration of psychotropic medication to a child. The bill would require the county child welfare agency to include or attach specified information in all reports provided to the juvenile court following court authorization for the administration of psychotropic medication to a child. By requiring social workers to comply with these new duties, the bill would impose a state-mandated local program.

This bill would require the State Department of Mental Health, on or before July 1, 2009, to identify or develop and make available written materials to assist county welfare agencies and mental health care providers in providing age-appropriate information to minors concerning psychotropic medications.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 369.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 369.5. (a) If a child is adjudged a dependent child of the court
- 4 under Section 300 and the child has been removed from the
- 5 physical custody of the parent *or guardian* under Section 361, *or*
- 6 *if the child has been removed from the physical custody of a parent*
- 7 *or guardian pending adjudication pursuant to Section 319, only*

1 a juvenile court judicial officer shall have authority to make orders
 2 regarding the administration of psychotropic medications for that
 3 child. The juvenile court may issue a specific order delegating this
 4 authority to a parent *or guardian* upon making findings on the
 5 record that the parent *or guardian* poses no danger to the child and
 6 has the capacity to authorize psychotropic medications. ~~Court~~
 7 ~~authorization for the administration of psychotropic medication~~
 8 ~~shall be based on a request from a physician, indicating the reasons~~
 9 ~~for the request, a description of the child's diagnosis and behavior,~~
 10 ~~the expected results of the medication, and a description of any~~
 11 ~~side effects of the medication. On or before July 1, 2000, the~~
 12 ~~Judicial Council shall adopt rules of court and develop appropriate~~
 13 ~~forms for implementation of this section.~~

14 (b) *The physician or other health care professional submitting*
 15 *the request for psychotropic medication shall have conducted an*
 16 *appropriate examination of the child in compliance with*
 17 *subdivision (a) of Section 2242 of the Business and Professions*
 18 *Code.*

19 (c) *Before authorizing the administration of psychotropic*
 20 *medication, the juvenile court judicial officer shall make a finding*
 21 *that the child's caregiver has been informed, and the child has*
 22 *been informed in an age-appropriate manner, of the expected*
 23 *results of the medication, significant side effects, and any other*
 24 *recommended treatments, and that the child has been informed of*
 25 *the right to request a hearing pursuant to subdivision (h). On or*
 26 *before July 1, 2009, the State Department of Mental Health shall*
 27 *identify or develop and make available written materials to assist*
 28 *county welfare agencies and mental health care providers in*
 29 *providing age-appropriate information to minors concerning*
 30 *psychotropic medications.*

31 (d) *If a hearing is conducted pursuant to subdivision (h), the*
 32 *child shall be present in court for the hearing unless the child*
 33 *declines to attend or the court finds that there is good cause for*
 34 *the child's absence from the proceedings.*

35 (e) *Upon authorizing the administration of psychotropic*
 36 *medication to a child, the court shall make any orders necessary*
 37 *to ensure both of the following:*

38 (1) *That the child receives any concurrent therapy, behavioral*
 39 *intervention, or other treatment recommended by the child's*
 40 *physician and other treatment providers to address the child's*

1 *mental health needs and to ensure the effectiveness of the*
2 *medication.*

3 *(2) That a plan is in place for regular monitoring of the*
4 *effectiveness of the medication and any side effects by the child's*
5 *caregiver and mental health care providers.*

6 *(f) In all reports provided to the juvenile court following court*
7 *authorization for the administration of psychotropic medication*
8 *to a child, the county child welfare agency shall include or attach*
9 *all of the following:*

10 *(1) Information from the child's physician and other mental*
11 *health care providers concerning the effectiveness of the*
12 *medication and any side effects experienced by the child.*

13 *(2) Any steps recommended by the child's mental health care*
14 *providers to increase the effectiveness of the medication or to*
15 *reduce side effects.*

16 *(3) The child's progress in any concurrent therapy or other*
17 *mental health treatment.*

18 ~~(b)~~

19 *(g) (1) In counties in which the county child welfare agency*
20 *completes the request for authorization for the administration of*
21 *psychotropic medication, the agency is encouraged to complete*
22 *the request within three business days of receipt from the physician*
23 *of the information necessary to fully complete the request.*

24 *(2) Nothing in this subdivision is intended to change current*
25 *local practice or local court rules with respect to the preparation*
26 *and submission of requests for authorization for the administration*
27 *of psychotropic medication.*

28 ~~(e)~~

29 *(h) Within seven court days from receipt by the court of a*
30 *completed request, the juvenile court judicial officer shall either*
31 *approve or deny in writing a request for authorization for the*
32 *administration of psychotropic medication to the child, or shall,*
33 *upon a request by the parent, the legal guardian, or the child's*
34 *attorney, or upon its own motion, set the matter for hearing.*

35 ~~(d)~~

36 *(i) Psychotropic medication or psychotropic drugs are those*
37 *medications administered for the purpose of affecting the central*
38 *nervous system to treat psychiatric disorders or illnesses. These*
39 *medications include, but are not limited to, anxiolytic agents,*
40 *antidepressants, mood stabilizers, antipsychotic medications,*

1 anti-Parkinson agents, hypnotics, medications for dementia, and
2 psychostimulants.

3 ~~(e)~~

4 *(j)* Nothing in this section is intended to supersede local court
5 rules regarding a minor's right to participate in mental health
6 decisions.

7 SEC. 2. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.

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